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2000P07583US01-7802**REMARKS**

Claims 1-22 were pending. The Examiner rejected claims 1-4, 6, 7 and 21 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,748,748 to *Fischer, et al.* (hereinafter "*Fischer*") in view of U.S. Patent No. 5,692,052 to *Tanaka, et al.* (hereinafter "*Fischer*"). In addition, the Examiner rejected claim 5 under 35 U.S.C. §103(a) as being unpatentable over *Fischer* in view of *Tanaka* and further in view of U.S. Patent No. 5,677,960 to *Unno, et al.* (hereinafter "*Unno*"). Claim 8 was rejected under 35 U.S.C. §103(a) over *Fischer* in view of *Tanaka* and in view of U.S. Patent No. 5,850,458 to *Tomisawa, et al.* (hereinafter "*Tomisawa*"). Furthermore, the Examiner rejected claims 9-11, 13, 14 and 15 under 35 U.S.C. §103(a) as being unpatentable over *Fischer* in view of *Tomisawa*. Claim 12 was rejected over *Fischer* in view of *Tomisawa* and further in view of *Unno*. Claims 16, 17, 18, 19 and 22 were rejected as being unpatentable over *Fischer* in view of U.S. Patent No. 5,493,616 to *Iidaka, et al.* (hereinafter "*Iidaka*"). Finally, claim 20 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Fischer* in view of *Iidaka* and further in view of *Tanaka*. Applicant has amended its claims and cancelled claim 15. For the foregoing reasons, Applicant disagrees with the basis of these rejections and believes its currently pending claims, claims 1-14 and 16-22, stand in condition for allowance.

The Examiner rejected claims 1-4, 6, 7 and 21 under 35 U.S.C. §103(a) as being unpatentable over *Fischer* in view of *Tanaka*. The Examiner recognizes that *Fischer* does not disclose a control unit having a plurality of scaling factors. The Examiner relies upon *Tanaka* for

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this missing element. However, nothing within the cited references provides motivation or suggestion for this combination. Specifically, there is no teaching that a scaling factor be used to adjust a waveform in *Tanaka*. Concurrently, there is nothing within *Fischer* that implies the invention of *Fischer* would benefit from a scaling factor. For the foregoing reasons, claim 1 and its dependents, claims 2-8, stand in condition for allowance.

The Examiner rejected claim 8 under 35 U.S.C. §103(a) over *Fischer* in view of *Tanaka* and further in view of *Tomisawa*. Claim 8, as amended, requires, "said speaker is part of an air induction body." The Examiner fails to provide sufficient motivation for *Tomisawa's* combination with the base reference of *Fischer*. *Fischer* actually teaches away from its combination with *Tomisawa*. As shown in Figure 1, loud speaker 44 is located in the interior of the passenger compartment so that:

If there is already an audio system in the vehicle 14, such as a stereo system with a radio receiver and a cassette or CD player, the apparatus claimed by the present invention can make use of the output stage or the output stages and the loud speaker or loud speakers of this audio system, as a result of which the cost for the apparatus claimed by the present invention can be reduced accordingly. [*Fischer* (column 9, ll. 13-19)].

By locating the speaker of *Fischer* in the air induction system as the Examiner suggests, the above benefit would be lost.

Additionally, the invention of *Fischer* focuses specifically on noise reduction in the passenger compartment of the vehicle. Accordingly, microphone 40, which detects whether noise has been cancelled completely, is "preferably located in the headrest 34b of the driver's seat 34." [*Fischer* (column 9, ll. 1-3)]. Hence, the loud speaker 44 and microphone 40 are

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located within the passenger compartment of the vehicle. By placing the speaker in the air induction system, the error microphone of *Fischer* would be unable to provide sufficient feedback of noise reduction in the passenger compartment since such noise reduction would be occurring in the air induction system, which is typically located outside the passenger compartment. For these reasons, *Fischer* teaches away from its combination with *Tanaka*. Therefore, claim 8 is in condition for allowance.

The Examiner rejected claims 9-11, 13 and 14 under 35 U.S.C. §103(a) over *Fischer* in view of *Tomisawa*. For the reason that the rejection of claim 8 is improper, so too is the rejection of the foregoing claims, even as amended. Therefore, claims 9-11, 13 and 14 stand in condition for allowance.

Claim 16 requires in pertinent part, "delaying transmission of the cancellation waveform data a predetermined amount of time to accommodate for a time taken to retrieve the cancellation waveform data." The Examiner readily acknowledges that *Fischer* does not disclose this feature. Instead, the Examiner contends it would have been obvious to supply this missing feature with the time delay of *Iidaka*. However, the cited reference does not disclose this feature. There is no reference in the cited portion of delaying "a predetermined amount of time to accommodate more time taken to retrieve the cancellation waveform data." There is no mention of this time period or even a cancellation waveform in *Iidaka*. Therefore, claim 16 and its dependents, claims 17-20 and 22, stand in condition for allowance.

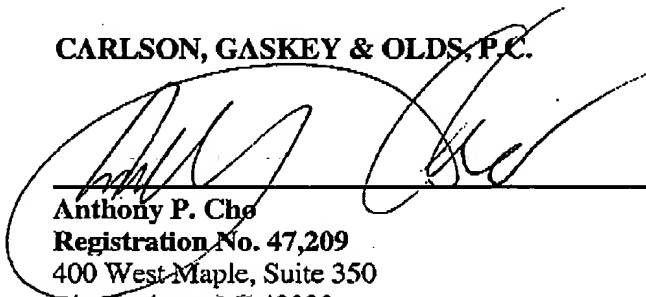
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Furthermore, claim 22 states that, "the predetermined amount of time is longer than the time taken to retrieve the cancellation waveform data." This feature is not shown in *lidaka* or any of the cited references. Therefore, claim 22 is in condition for allowance.

Respectfully submitted,

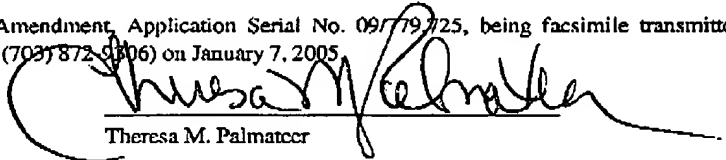
CARLSON, GASKEY & OLDS, P.C.

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Anthony P. Cho
Registration No. 47,209
400 West Maple, Suite 350
Birmingham, MI 48009
(248) 988-8360

CERTIFICATE OF FACSIMILE

I hereby certify that this Amendment, Application Serial No. 09/797,725, being facsimile transmitted to the Patent and Trademark Office (Tax No. (703) 872-9806) on January 7, 2005.


Theresa M. Palmatier

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